



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of
John B. Cline

Serial No.: 10/811,055

New York, New York 10165
April 5, 2010

Filed: March 26, 2004

For: CONTROLLED EVACUATION OSTOMY
DEVICE WITH EXTERNAL SEAL

Examiner: Michael G. Bogart

Art Unit: 3761
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1636-135

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

AMENDMENT

This is in response to the Office Action dated January 7, 2010.

Claims 35-38 and 40-60 are pending in the application.

Claims 35-38 and 40-60 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting over claims 1-9 and 11-17 of co-pending Application Serial No. 11/430,542. Applicant will file the necessary disclaimer once the claims of Serial No. 11/430,542 are allowed.

Claims 35-38, 40, 42-44, 46, 47, 50-55, 59 and 60 have been rejected under 35 USC 102(b) as "anticipated" by Kawasaki et al. in view of Wagner and further in view of Lloyd.

Applicant respectfully asserts that this is an improper rejection. An anticipation rejection pursuant to 35 USC 102(b) requires that the invention be described in "a printed